

**MINUTES OF THE
JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE INTERIM COMMITTEE**

Wednesday, October 20, 2010 – 9:00 a.m. – Room 30 House Building

Members Present:

Sen. Jon J. Greiner, Senate Chair
Rep. Douglas C. Aagard, House Cochair
Rep. Lorie D. Fowlke, House Cochair
Sen. Lyle W. Hillyard
Sen. Benjamin M. McAdams
Sen. Ross I. Romero
President Michael G. Waddoups
Rep. Sheryl L. Allen
Rep. Trisha S. Beck
Rep. Jim Bird
Rep. Richard A. Greenwood
Rep. Don L. Ipson
Rep. Brian S. King
Rep. Rebecca D. Lockhart
Rep. Kay L. McIff
Rep. Curtis Oda

Rep. Jennifer M. Seelig
Rep. Mark A. Wheatley
Rep. Larry B. Wiley
Rep. Carl Wimmer

Members Absent:

Sen. D. Chris Buttars
Rep. Keith Grover
Rep. Eric K. Hutchings

Staff Present:

Mr. Jerry D. Howe, Policy Analyst
Mr. Stewart E. Smith, Policy Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Esther D. Chelsea-McCarty, Associate General Counsel
Ms. Amanda K. Majers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Aagard called the meeting to order at 9:14 a.m.

MOTION: Sen. Hillyard moved to approve the minutes of the September 15, 2010 meeting. The motion passed unanimously, with Rep. Allen, Rep. Beck, Rep. King, Rep. McIff, Rep. Seelig, Rep. Wheatley, and Rep. Wimmer absent for the vote.

2. Statutorily Required Reports Amendments

Chair Aagard discussed 2011 General Session draft legislation, "Statutorily Required Reports Amendments" (2011FL-0254/005), which was distributed to the Committee prior to the meeting.

MOTION: Sen. Greiner moved to adopt 2011 General Session draft legislation, "Statutorily Required Reports Amendments" (2011FL-0245/005), as a committee bill. The motion passed unanimously, with Rep. Allen, Rep. Beck, Rep. King, Rep. McIff, Rep. Seelig, Rep. Wheatley, and Rep. Wimmer absent for the vote.

At the request of the chair, Rep. Ipson volunteered to sponsor 2011 General Session draft legislation, "Statutorily Required Reports Amendments" (2011FL-0245/005), as a committee bill.

3. DUI Report

Ms. Mary Lou Emerson, Director, Utah Substance Abuse Advisory Council, Utah Commission on Criminal and Juvenile Justice, distributed and discussed "Eighth Annual DUI Report to the Utah Legislature: 2010."

Ms. Anna Kay Waddoups, Chair, DUI Committee, testified to an incident of a DUI fatality that occurred during the past year.

Ms. Emerson answered questions from the Committee concerning the DUI report.

Mr. Richard Schwermer, Assistant Court Administrator, Administrative Office of the Courts, answered questions concerning dismissals of DUI cases.

Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors, also answered questions concerning dismissals of DUI cases.

Colonel Daniel Fuhr, Superintendent, Utah Highway Patrol, answered questions concerning the Utah Highway Patrol's DUI squad.

4. Status of Housing Inmates in County Jails

Mr. Thomas Patterson, Executive Director, Utah Department of Corrections (UDC), discussed the daily incarceration rate of housing inmates in county jails and the number of state inmates housed in county jails. Mr. Patterson answered questions from the Committee.

Ms. Robyn A. Williams, Deputy Director, Operations, UDC, answered a question concerning the transportation of prisoners.

5. Recidivism Reduction Plan

Ms. Williams discussed the UDC's post-secondary educational and vocational programs involved in recidivism efforts and answered questions from the Committee.

Mr. Craig Burr, Division Director of Programing, UDC, answered questions concerning the Utah Defendant Offender Workforce Development Task Force.

6. Death Penalty Amendments

Rep. McIff distributed and discussed 2011 General Session draft legislation, "Death Penalty Procedures Amendments" (2011FL-0343/002). Rep. McIff asked to bring the draft legislation back to the Committee at the November meeting and answered questions from the Committee.

Mr. Thomas Brunker, Capital Case Coordinator, Utah Office of the Attorney General, answered questions from the Committee concerning the draft legislation.

7. Indigent Defense Act

Mr. Adam Trupp, General Counsel, Utah Association of Counties, discussed whether counties are meeting quality of service and constitutional standards in appellate cases where they provide indigent defense. He presented approaches under consideration to improve the system. Mr. Trupp answered questions from the Committee.

Mr. Jared Eldridge, Juab County Attorney, spoke in favor of implementing oversight and a uniform statewide standard for the appellate indigent defense process.

Mr. Trupp also distributed and discussed "Indigent Defense Act - 2011 Proposal for Changes," which addresses changes to indigent defense at the trial level.

Mr. Don Hansen, Litigation Division, Salt Lake County District Attorney's Office, spoke concerning privately retained counsel for indigent defense and changes to the Indigent Defense Act.

Ms. Marina Lowe, American Civil Liberties Union of Utah (ACLU), shared the ACLU's observations of its investigation of indigent defense in Utah.

Mr. Todd Stone, citizen, spoke concerning being an indigent defendant in a divorce.

Mr. Rob Latham, Utah Association of Criminal Defense Lawyers, brought to the Committee's attention that often in indigent defense the family of the defendant may retain private counsel for that person, but the person may still lack the ability to provide expert witnesses.

8. Custodial Interference Enforcement

Rep. Carl Wimmer discussed the enforcement of 2010 General Session Enrolled Copy H.B. 197, "Custodial Interference Amendments," which was distributed to the Committee prior to the meeting. Rep. Wimmer answered questions from the Committee.

Mr. Dan Deuel, American Parental Action League, spoke concerning the enforcement of H.B. 197.

Mr. Tony Calderone spoke concerning the enforcement of H.B. 197 and stated that law enforcement and judges often ignore the provisions of H.B. 197.

Mr. James O. Tracy, Utah County Sheriff's Office, stated he feels the bill is sufficient, but stated that enforcement is often ignored because an agency's policy may be unclear as to what actions should be taken by law enforcement. He also contended that training is often a problem.

Mr. Boyden reviewed the provisions of H.B. 197 and stated that training needs to be provided to encourage enforcement.

9. Other Business / Adjourn

MOTION: Sen. Greiner moved to adjourn the meeting. The motion passed unanimously, with Sen. Hillyard, President Waddoups, Rep. Fowlke, Rep. Ipson, Rep. King, and Rep. McIff absent for the vote.

Chair Aagard adjourned the meeting at 12:00 p.m.